




DEPARTMENT OF MENTAL HEALTH POLICY/PROCEDURE

SUBJECT NON-OPEN PROTECTED HEALTH INFORMATION FILE	POLICY NO. 300.06	EFFECTIVE DATE 10/08/2010	PAGE 1 of 4
APPROVED BY:  Director	SUPERSEDES 202.38 10/08/2010	ORIGINAL ISSUE DATE 10/08/2010	DISTRIBUTION LEVEL(S) 1, 2

PURPOSE

- 1.1 To establish uniform policy and practices in the Los Angeles County Department of Mental Health (LACDMH) directly-operated programs for retaining information on an individual prior to opening a Clinical Record.
- 1.2 To inform Legal Entity contractors of LACDMH that in relation to Protected Health Information (PHI) that is not contained in a Clinical Record they must have definitions analogous to those in this Policy, establish specific policy statements as indicated in this Policy, and formulate similar procedures.

DEFINITION

- 2.1 **Protected Health Information:** Confidential information that is defined by federal and State code that provides details regarding individually identifiable information relating to the: (Reference 1 and 2)
 - past, present, or future physical or mental health or condition of an individual,
 - provision of health care to an individual, or
 - past, present, or future payment for health care provided to an individual.
- 2.2 **Non-Open Protected Health Information File:** A file containing all PHI related to an individual for whom there is no Clinical Record at the Provider Number where contact occurs.

POLICY

- 3.1 Specific staff of a Legal Entity must be designated as the Holder of Responsibility for Non-Open PHI Files.
 - 3.1.1 Designated staff for LACDMH Directly-Operated Non-Open PHI Files are:



**LAC
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- 3.1.1.1 Department-wide responsibility lies with the Custodian of Records who shall be the LACDMH Director of Clinical Records, and
 - 3.1.1.2 Provider-site specific responsibility lies with a Keeper of Records designated by program management at each LACDMH site.
 - 3.1.2 Legal Entities must designate the Holders of Responsibility for all of their sites.
- 3.2 All PHI pertaining to an individual prior to an episode being opened and a clinical record being created must be retained and retrievable in a Non-Open PHI File.
 - 3.2.1 A Non-Open PHI File must minimally be retained for adults and children over the age of fourteen (14) a minimum of seven (7) years and for children thirteen (13) years or younger at least until their twenty-first birthday.
 - 3.2.2 LACDMH programs should refer to the LACDMH Clinical Records Guidelines: Chapter 5, Retention, for additional retention requirements.
- 3.3 Legal Entities must establish similar policy and procedural requirements.
- 3.4 Ownership
 - 3.4.1 All Non-Open PHI Files of LACDMH directly-operated programs are the property of LACDMH even though the information contained in the file belongs to the individual.
 - 3.4.2 Non-Open PHI Files of Legal Entities are the property and responsibility of the Legal Entity even if that contract terminates.
 - 3.4.2.1 If a Legal Entity goes out of business, LACDMH, at its option, may assume responsibility for the Non-Open PHI Files of the closing Legal Entity.



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3.5 Content of the Non-Open PHI File

- 3.5.1 LACDMH directly-operated programs must use the Department's approved content and forms for documentation. Any program wishing to make exceptions to either the data elements or format of any clinical form must seek written approval from the Clinical Records Director.
- 3.5.2 Legal Entities are responsible for establishing the content and forms that are to be a part of their Non-Open PHI File.

PROCEDURE (For LACDMH ONLY)

- 4.1 All Non-Open PHI Files shall be filed alphabetically in a secure area of the record room or location designated for non-opened cases.
- 4.2 Non-Open PHI Files will include all documentation regarding an individual prior to a Clinical Record being created at that Provider Number.
- 4.3 All Non-Open PHI Files will be incorporated into any subsequent clinical record created for the individual in accord with the Department's approved chart order for their program.
- 4.4 When a request for copies of documents in the Non-Open PHI File is made, the information must be provided upon completion of a valid Authorization for Use/Disclosure of Protected Health Information and/or Client's Request for Access to Health Information in accordance with LACDMH Policy No. 500.01 Use and Disclosure of Protected Health Information Requiring Authorization and LACDMH Policy No. 501.01 Client's Right to Access Protected Health Information and Confidential Data, respectively.
- 4.5 Offsite storage of Non-Open PHI Files must be arranged through the LACDMH Custodian of Records.
 - 4.5.1 If a LACDMH directly-operated clinic closes, its management shall work with the LACDMH Custodian of Records or his/her designee to ensure



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the proper and orderly transfer, storage, or destruction of all Non-Open PHI Files.

REFERENCE

1. Applicable Federal Code as of September 2010: Health Insurance Portability and Accountability Act of 1996 (HIPAA) - Administrative Simplification (Code of Federal Regulations Title 45 Parts 160 and 164)
2. Applicable State Code as of September 2010: California Welfare and Institutions Code - Section 5328

RESPONSIBLE PARTY

LACDMH Program Support Bureau, Quality Assurance Division